

ORIGINAL

Decision No. 57282

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DOUGLAS F. BISHOP,
 Complainant,
 vs.
 DYKE WATER COMPANY,
 Defendant.

Case No. 6141

Douglas F. Bishop, in propria persona.
Arlyone Lansdale, Attorney, for Dyke Water Company.
Donald B. Steger, for the Public Utilities Commission
 staff.

O P I N I O N

Public hearing was held in this matter on July 25, 1958, at Los Angeles before Examiner Grant E. Syphers, at which time evidence was taken and the matter submitted. It now is ready for decision.

The complainant is in the process of constructing a building at 8512 Katella Avenue in Garden Grove, California. This building is 35 feet by 70 feet in size and requires water to service one rest room. The connection to the building is a one-inch pipe line.

The evidence discloses that when the complainant requested water service the defendant water company required a deposit of \$82.40 upon the theory that any water connection made would be temporary in nature and would have to be changed sometime in the

future. Subsequent to the filing of the formal complaint the complainant paid this sum of \$82.40, and received a so-called temporary connection.

The defendant company has an existing water transmission line along Katella Avenue to which the so-called temporary connection now serving complainant has been made. It is the contention of the company that the water supply in this line is inadequate to serve additional customers in the area and that accordingly it will be necessary to remove the complainant's connection and connect it to a proposed new main which is planned along Dale Avenue. It should be noted that defendant's property is at the corner of Katella and Dale Avenues. The company's witness testified that the proposed new line along Dale Avenue would be completed within the next 60 days. Further, the defendant company gave assurances at the hearing that the complainant would receive water from the so-called temporary connection until the so-called permanent connection was made from the new line.

The only issue, therefore, in these proceedings is whether or not the payment of \$82.40 is authorized by the company's tariff. In support of the charge the company relies upon Rules Nos. 13 and 14 of its tariff. Rule No. 13 applies to temporary service and reads as follows:

"A. Establishment of Temporary Service

The utility will, if no undue hardship to its existing customers will result therefrom, furnish temporary service under the following conditions:

1. The applicant will be required to pay to the utility in advance, the estimated net cost of installing and removing the facilities necessary to furnish the service.
2. Where the duration of service is to be less than one month, the applicant may also be required to deposit a sum of money equal to the estimated bill, subject to adjustment and refund or repayment in accordance with actual bill due upon discontinuance of service.
3. Where the duration of service is to exceed one month, the applicant may also be required to establish his credit in the manner prescribed for permanent service.

B. Change to Permanent Status

In the event a temporary service becomes permanent, the utility will refund the temporary customer the amount paid for service installation. If the customer continues for 36 months, where a main extension is involved, and his operations at the end of that time appear permanent, the payment made under part A-1 of this rule will be adjusted to the terms of the extension rule applicable to permanent service."

Rule No. 14 relates to conditions resulting in a short supply of water or interrupted service. It reads as follows:

"A. Shortage and Interruption

The utility will exercise reasonable diligence to furnish a continuous and adequate supply of water to its customers and to avoid any shortage or interruption of delivery thereof. It cannot, however, guarantee complete freedom from interruption.

B. Temporary Suspension for Repairs

The utility has the right to suspend service temporarily to make necessary repairs or improvements to its system and will notify the customers affected as soon as circumstances permit, and will prosecute the work with due diligence and with the least possible inconvenience to its customers.

C. Apportionment of Supply During Time of Shortage

During times of threatened or actual water shortage, the utility will apportion its available water supply among

its customers as directed by the Public Utilities Commission. In the absence of direction from the Commission, it will apportion the supply in the manner that appears most equitable under circumstances then prevailing with due regard to public health and safety."

In analyzing the question presented herein it is fundamental that a utility must serve all customers within its service area without discrimination. There is no question on this record but that the property of complainant is in the service area of the defendant water company. Rule No. 13 obviously relates to applicants who desire service on a temporary basis and permits the utility to make certain charges to cover the cost of installing and removing the facilities. However, this complainant is not asking for temporary service but he desires permanent water service for the building. The fact that the water company contends that it has insufficient water in its main on Katella Avenue to add additional customers does not place this complainant under the temporary service rule. Accordingly, we now hold that Rule No. 13 has no application to this situation. Rule No. 14 provides a course of conduct for the utility to follow in cases of shortage of water supply or cases where it is necessary to temporarily suspend service to make repairs or improvements to the system. This rule obviously has no bearing upon any purported charges which may be made under Rule No. 13.

We therefore conclude that the charge of \$82.40 was not authorized by the company's tariff, and the defendant water company will be ordered to refund this charge in the ensuing order. Likewise, the defendant water company will not be permitted to disconnect the water service now being provided to complainant without providing a satisfactory substitute. If there should arise a shortage of water the company may apply its Rule No. 14 to all of its customers, but it may not exercise any discrimination against the complainant herein.

O R D E R

Complaint as above entitled having been filed, public hearing having been held thereon, the Commission being fully advised in the premises and hereby finding it to be not adverse to the public interest,

IT IS ORDERED:

(1) That the Dyke Water Company be, and it hereby is, directed to furnish water service to the building owned by Douglas F. Bishop located at the southeast corner of the intersection of Katella and Dale Avenues in the City of Garden Grove, California, upon the same basis as water is furnished to other similar customers and in accordance with its applicable rules.

(2) The Dyke Water Company shall within fifteen days after the effective date of this order, refund to Douglas F. Bishop the sum of \$82.40, and within ten days after making such refund shall so advise the Commission in writing.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California,
this 2nd day of September, 1958.

E. Lynn Fox
President

Robert E. Mitchell

William J. Dade

Theodore J. Jenner

Commissioners

Ray E. Untereiner
Commissioner....., being
necessarily absent, did not participate
in the disposition of this proceeding.